

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

UNITED STATES OF AMERICA ,)	
)	
Plaintiff)	
)	
)	
vs.)	Case No. 4:15CV-181-JM
)	
)	
)	
UNITED PAIN CARE, LTD.)	
d/b/a UNITED PHARMACY and)	
MAHMOOD AHMAD, M.D.)	
)	
Defendants)	

**UNITED STATES’ STATEMENT OF UNDISPUTED
MATERIAL FACTS AND RESPONSES TO DEFENDANTS’
STATEMENT OF UNDISPUTED MATERIAL FACTS**

The United States of America, by and through Christopher R. Thyer, United States Attorney for the Eastern District of Arkansas, and the undersigned, states as follows for its Statement of Undisputed Facts pursuant to Local Rule 56.1(a):

1. Mahmood Ahmad (“Ahmad”) and his wife formed a corporation, United Pain Care, Ltd., for purposes of opening a pharmacy at 7841 Warden Road in Sherwood, Arkansas. *See* Affid. Ahmad, ¶ 3.
2. Ahmad was the President of United Pain Care, Ltd. and Owner/Incorporator. *See* Arkansas Sec. of State information.
3. Ahmad and his wife owned the pharmacy between January 27, 2012 and May 30, 2013. *See* Affid. Ahmad, ¶¶ 3,9.

4. In August of 2009, Ahmad went before the Arkansas State Medical Board to request permission to dispense legend drugs. *See* Affid. Ahmad, ¶2.

5. Ahmad went before the Arkansas Pharmacy Board to apply for a retail pharmacy license permit. *See* Affid. Ahmad, ¶ 5.

6. On May 28, 2010, an application for DEA registration for a retail pharmacy was submitted online bearing the name of United Pain Care with a location of 7481 Warden Road, Sherwood, Arkansas 72120. The tax identification number associated with the application is xxxxx8088 with an electronic signature of Mahmood Ahmad. *See* Certification of Registration History.

7. Ahmad was the corporate officer who filed the application referenced above on behalf of the corporation, United Pain, Ltd. *Id.*

8. On April 4, 2013, the DEA registration was renewed online for the fictitious name United Pharmacy. The renewal was paid with a MasterCard bearing account holder name Mahmood Ahmad with a billing address of 7481 Warden Road, Sherwood, Arkansas 72120 in the amount of \$731.00. *Id.*

9. Between January 27, 2012 and May 30, 2013, United Pain Ltd. or United Pain Ltd. d/b/a United Pharmacy was the registrant for the pharmacy. *Id.*

10. Ahmad made the hiring decisions with regard to the pharmacists who worked in the pharmacy. *See* Test. of Rinchuso, p. 38.

11. Ahmad does not have any corporate documents which reflect the corporate structure of United Pharmacy, including, but not limited to articles of incorporation, operating agreement, corporate structure and corporate officers. *See* Def. Disc. Resp., p. 4.

12. Ahmad did not maintain any meeting minutes related to the pharmacy. *Id.* at 5.

13. The only Power of Attorney issued by defendants for purposes of ordering controlled substances for United Pain Care, Ltd. d/b/a United Pharmacy was dated July 31, 2013. *Id.* at 3.

14. On May 24, 2013, Mahmood Ahmad (drahmad@unitedpaincare.com) sent an email to Kendall B. Shortway, Drug Enforcement Agency, Diversion Investigator, carbon copying rx@unitedpharmacyrx.com, regarding the pharmacy audit. The email reads in part, “[H]owever, I am the owner of the pharmacy, any violations which are assessed against the pharmacy are ultimately applicable to the company (which I own) since the pharmacist is an employee.” *See* Email from Ahmad.

15. All pharmacists were employees of United Pain Care, Ltd. d/b/a United Pharmacy during Ahmad’s ownership. *See* Email from Ahmad. *Id.*

The United States of America, by and through Christopher R. Thyer, United States Attorney for the Eastern District of Arkansas, and the undersigned, states as follows for its response to Defendants’ Statement of Undisputed Material Facts pursuant to Local Rule 56.1(b):

1. Between January 27, 2012 and May 30, 2013, United Pain Care, Ltd., a subchapter S corporation, was owned 50/50 by Mahmood Ahmad, M.D. and his wife.

RESPONSE: Admitted.

2. Between January 27, 2012, and October 10, 2012, United Pain Care, Ltd. had a separate division doing business as United Pharmacy.

RESPONSE: Plaintiff admits United Pharmacy, Ltd. operated as United Pharmacy from January 27, 2012 to October 10, 2012, but denies it was separate.

3. On October 10, 2012, United Pain Care, Ltd. filed an application for the fictitious name of United Pharmacy.

RESPONSE: Admitted.

4. In July of 2013, Mahmood Ahmad, M.D. and his wife sold United Pharmacy to pharmacist Albert Rinchuso.

RESPONSE: Admitted.

5. Between January 27, 2012, and May 30, 2013, the registrant for Drug Enforcement Administration purposes was United Pharmacy and the Pharmacist-In-Charge was Pamela Hastings West (October 12, 2011 through May 15, 2012) and Albert Rinchuso (July 3, 2012 through July of 2013).

RESPONSE: Admitted.

6. Between January 27, 2012 through May 30, 2013, Mahmood Ahmad, M.D. did not manage; participate in the ordering of controlled substances, or participate in the dispensing of controlled substances at United Pharmacy.

RESPONSE: Denied.

7. Between January 27, 2012 through May 30, 2013, United Pharmacy was managed as a separate business with its own software, paperwork, phone, fax, email, website, and staff which had no overlap in responsibilities with the medical clinic, United Pain Care, Ltd.

RESPONSE: Admit United Pharmacy's had its own software, paperwork, phone, fax and staff, but denies the remaining facts.

8. Both Pamela Hastings West and Albert Rinchuso were duly licensed pharmacists with the designation as Pharmacist-In-Charge between January 27, 2012 and May 30, 2013 and managed United Pharmacy's day to day activities including the ordering and dispensing of controlled substances.

RESPONSE: Admitted as to West and Rinchuso being the duly licensed pharmacists, titled Pharmacist-In-Charge, and that they ordered and dispensed controlled substances. Plaintiff denies the remaining allegations and affirmatively asserts they were employees of United Pharmacy, which was owned by Ahmad.

9. Mahmood Ahmad, M.D. did not have a key to United Pharmacy and was never in the pharmacy without the Pharmacist-In-Charge present. Before the pharmacy was sold in July of 2013, Mahmood Ahmad, M.D. did not dispense a single controlled substance or cause any of his medical staff to dispense controlled substances. In addition, Mahmood Ahmad, M.D. did not order any controlled substances, handle any controlled substances, verify, count, or reconcile any controlled substances and did not return any pharmacy medications, including controlled substances.

RESPONSE: Plaintiff admits Ahmad purports these allegations as true, but without further discovery, denies same for purposes of the pending motions.

10. Between January 27, 2012 and May 30, 2013, Mahmood Ahmad, M.D. had no knowledge of any record deficiencies or of any record keeping requirements (assuming they existed), and therefore, was not in a position to prevent or correct any deficiencies.

RESPONSE: Denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy was mailed via ECF, electronic mail and/or U.S. mail to the following individual on 23rd day of October, 2015.

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